

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

RECEIVED

LAYTHRON TILLIS and ETHEL TILLIS, 2007 SEP 13 P 1:40

Plaintiffs,

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

vs.

CASE NO. 1:07-cv-78-WKW

CECIL E. CAMERON, HERTZ CLAIMS
MANAGEMENT and THE HERTZ
CORPORATION,

Defendants.

DEFENDANTS' RESPONSE TO COURT'S SHOW CAUSE
ORDER OF AUGUST 30, 2007

COME NOW Defendant Cecil Cameron and Defendants Hertz Claim Management Corporation and The Hertz Corporation and submit this response to the Court's show cause order dated August 30, 2007. The Court's order directed the parties to show cause as to "how the complete diversity requirement of subject matter jurisdiction exists in this matter."

1. Upon further review of this matter, it appears that the Court's implication in its order is correct that nowhere in the complaint or notice of removal is there an allegation as to the citizenship of the Plaintiffs. While in the Notice of Removal the defendants properly alleged that "complete diversity" existed in this matter, and while the Defendants did allege they were neither incorporated in Alabama nor had their principal place of business in this State, it does not appear the citizenship of the Plaintiffs was alleged.

2. It is undisputed that the Plaintiffs are residents of Alabama, both at the time they originally filed their suit in 2004 and when the defendants removed this matter in 2007.¹ In D.J. McDuffie, Inc. v. Old Reliable Fire Ins. Co., 608 F.2d 145 (5th Cir. 1979), the court specifically allowed a defendant to amend its notice of removal to include previously absent allegations as to the citizenship of the parties. The Eleventh Circuit Court of Appeals and the district courts of the Eleventh Circuit have, of course, followed D.J. McDuffie's holding. See Armada Coal Export, Inc. v. Interbulk, Ltd., 726 F.2d 1566 (11th Cir. 1984) (permitting an ; Matrix Z, LLC v. Landplan Design, Inc., 493 F.Supp.2d 1242 (S.D. Fla. 2007) (permitting an amended Notice of Removal to supply additional information to show citizenship where it was not originally provided).

3. To the extent necessary, the Defendants have attached an Amended Notice of Removal specifically alleging the citizenship of the parties and would request leave from the Court to allow this amended if the Court deems such necessary in accordance with the precedent stated above. See Exhibit "A" attached hereto.

4. Also, to the extent such is necessary, the defendants would show unto the Court that in accordance with the attached affidavit of Coffee County Revenue Commissioner Ronnie Burns, the Plaintiffs have been continuous residents of Coffee County, Alabama and since at least 2003 (a year before this action was filed). See Exhibit "B" attached hereto. Mr. Burns specifically avers that the Tillis' have claimed their homestead residency in Coffee County, Alabama since 2003. Also, as shown in Exhibit "C" the accident report related to this case shows that the Tillis' reside in Elba, Alabama.

¹It is important to note that in their Motion to Remand, Plaintiffs failed to raise any argument that complete diversity did not exist from the standpoint of the citizenship of the parties.

5. Finally, and as noted above, Hertz Claim Management Corporation and The Hertz Corporation alleged in the Notice of Removal that they were incorporated in states other than Alabama and did not have their principal places of business in Alabama. Moreover, there is a specific affidavit which is part of the Court file which avers that Hertz Claim Management Corporation is a Delaware corporation with its principal place of business in New Jersey. See Exhibit "D" attached hereto. In a height of caution, these defendants state here, in the attached affidavits marked as Exhibit "E," and in the attached Amended Notice that they are, and were at all times relevant hereto, Delaware corporations with their principal place of business in New Jersey. Defendant Cameron, of course, stated in the original Notice of Removal that he was a resident of the State of Florida.


Wherefore, the Defendants request the Court to find that complete diversity does exist and, if the Court deems such necessary, allow the attached Amended Notice of Removal.



R. RAINER COTTER, III (COT010)
Attorney for Hertz Claim Management Corporation
and The Hertz Corporation

OF COUNSEL:

MARSH, COTTER & STEWART, LLP.
P.O. Box 310910
Enterprise, Alabama 36331
334-347-2626



RANDALL MORGAN
DAVID HENDERSON
Attorneys for Defendant Cecil Cameron

OF COUNSEL:

HILL, HILL, CARTER, FRANCO, COLE & BLACK, P.C
P.O. Box 116
Montgomery, Alabama 36101-0116
334-834-7600

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the following attorneys of record by placing a copy of the same in the U.S. Mail, postage prepaid and properly addressed this 13th day of September, 2007:

Thomas B. Albritton, Esq.
P.O. Box 880
Andalusia, Alabama 36420

A handwritten signature in black ink, appearing to read "Paul W. Chalkley", is written over a horizontal line.

OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

LAYTHRON TILLIS, an individual
and ETHEL TILLIS, an individual,

Plaintiffs,

vs.

CECIL E. CAMERON, an individual;
HERTZ CLAIMS MANAGEMENT, a
foreign corporation; THE HERTZ
CORPORATION, a foreign corporation,

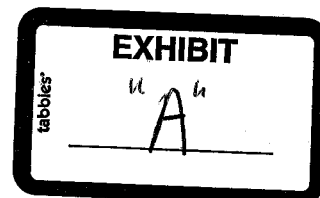
Defendants.

Case No.: 1:07-cv-78-WKW

AMENDED NOTICE OF REMOVAL

COME NOW the Defendants in the above-styled lawsuit and pursuant to 28 U.S.C. § 1441 (a), file this Amended Notice of Removal of this cause from the Circuit Court of Coffee County, Alabama, Elba Division, to the United States District Court for the Middle District of Alabama, Southern Division. As grounds for the removal of this cause to this Honorable Court, the Defendants show unto the Court as follows:

1. On or about April 13, 2004, plaintiffs commenced the above-styled action in the Circuit Court for Coffee County, Alabama, Elba Division, CV-2004-49. Plaintiffs are both residents of the State of Alabama. The Complaint alleged causes of action against Cecil E. Cameron ("Cameron") for negligence and wantonness as a result of an automobile accident. The plaintiffs demanded a trial by jury. A copy of plaintiffs' Complaint was attached to the original Notice of Removal as Exhibit "A". At the time of the original Notice of Removal,



Cameron had not been served with the Summons and Complaint.

2. Plaintiffs amended their Complaint on or about January 12, 2007 to add defendants Hertz Claims Management Corporation and The Hertz Corporation (hereinafter referred to collectively as "Hertz Defendants"). The Amended Complaint alleged causes of action against the Hertz Defendants for breach of contract and fraud. A copy of plaintiffs' First Amended Complaint was attached to the original Notice of Removal as Exhibit "B". The Hertz Defendants had not been served with the Summons and First Amended Complaint at the time of the original Notice of Removal.

3. None of the defendants filed an Answer in the Circuit Court of Coffee County, Alabama, Elba Division. However, the issue of service of process via publication has been litigated in this case to the Alabama Supreme Court. A copy of all other pleadings in this case were attached to the original Notice of Removal as Exhibit "E". Defendant Cameron is a resident citizen of the State of Florida and has been so at all times relevant hereto. On January 23, 2007, Cameron authorized his undersigned attorneys to accept service of process of the plaintiffs' Summons and Complaint and First Amended Complaint on his behalf. The Hertz Defendants are foreign corporations. Said corporations are incorporated and have their principal places of business in a state other than the State of Alabama. Specifically, the Hertz Defendants were both incorporated in the State of Delaware and have their principal place of business in New Jersey. On January 18, 2007, the Hertz Defendants were served with the plaintiffs' Summons and First Amended Complaint.

4. Defendants submit diversity of citizenship exists in this matter. See 28 U.S.C. § 1332 (a)(1).

5. Defendants submit the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00. The plaintiffs' Complaint contains a demand for compensatory damages and punitive damages. Plaintiff also made a demand to settle this case for \$175,072.87.¹ Plaintiff Laythron Tillis' claims obviously exceed the jurisdictional requirement as evidenced by his allegations of injury and settlement requests in excess of \$75,000.00.

To the extent plaintiff Ethel Tillis joins in this claim, it is clear her claim also exceeds the jurisdictional amount necessary to confer jurisdiction on this court. To the extent she does not, this court has supplemental pendant party jurisdiction over her claim pursuant to 28 U.S.C. § 1367(a). See *Monroe v. Brown*, 256 F. Supp.2d 1292 (M.D. Ala. 2003).

6. Based on the amount in controversy and diversity of citizenship, this Court has original jurisdiction over this cause pursuant to 28 U.S.C. § 1332(a)(1) and additionally supplemental jurisdiction over the claim of the wife Ethel Tillis pursuant to 28 U.S.C. § 1367(a).

7. Pursuant to 28 U.S.C. § 1446(b), the removal of this cause to this Court is timely. Even though this removal is over one year after the filing of the plaintiffs' Complaint, the action did not commence until the defendants waived service of process as they were never served with the Summons and Complaint. See *Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 119 S. Ct. 1332 (U.S. 1999) (the defendant's period for removal will be no less than 30 days from service and if the complaint is filed in court prior to any service, the removal period runs from the service of the summons (summons and complaint

¹Defendants only show this matter to establish that plaintiffs seek in excess of \$75,000.00 in damages, but maintain that said settlement demand will remain inadmissible at any other proceeding in this matter.

in Alabama). Additionally, the one year rule does not apply to this case as this case would have been removable when originally filed. See *Carter v. Frito-Lay, Inc.*, 144 Fed. Appx. 815 (11th Cir. 2005) (as for the one-year limitation provision cited in the second paragraph, --28 U.S.C. § 1446 (b)-- courts have held that it only applies to cases that were not removable to federal court originally filed) following *Brown v. Tokio Marine & Fire Ins. Co.*, 284 F. 3d 871, 873 (8th Cir. 2002); see also *Badon v. RJR Nabisco, Inc.*, 224 F. 3d 382, 389 (5th Cir. 2000); *Brierly v. Alusuisse Flexible Packaging, Inc.*, 184 F. 3d 527, 535 (6th Cir. 1999).

8. Pursuant to 28 U.S.C. § 1446(d), these defendants have given written notice of the filing of this removal to the plaintiffs. The defendants have also filed a copy of said notice with the Clerk of the Circuit Court for Coffee County, Alabama, Elba Division. (See Exhibits "C" and "D").

WHEREFORE, THE ABOVE PREMISES HAVING BEEN CONSIDERED, these defendants request this Court to make and enter the proper orders to effectuate the removal of this cause from the Circuit Court of Coffee County, Alabama to the United States District Court for the Middle District of Alabama, Southern Division, and that no further or other proceedings shall be had with respect to this cause in the Circuit Court for Coffee County, Alabama.

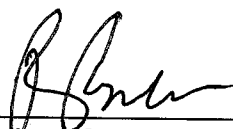


RANDALL MORGAN (MOR037)
DAVID W. HENDERSON (HEN072)
Attorneys for Defendant Cecil E. Cameron

OF COUNSEL:

HILL, HILL, CARTER, FRANCO,
COLE & BLACK, P.C.
Post Office Box 116

Montgomery, Alabama 36101-0116
Phone: (334) 834-7600
Facsimile: (334) 263-5969



R. Rainer Cotter III (COT010)
Attorney for Defendant Hertz Claims Management
and The Hertz Corporation

OF COUNSEL:


MARSH, COTTER & STEWART, L.L.P.
Post Office Box 310910
Enterprise, Alabama 36331

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon the parties listed below by placing a copy of the same in the U. S. Mail, postage prepaid, on this the 13th day of September 2007.

Attorney for Plaintiffs:

Thomas B. Albritton, Esq.
Albrittons, Clifton, Alverson, Moody & Bowden, P.C.
Post Office Drawer 880
Andalusia, Alabama 36420



OF COUNSEL

STATE OF ALABAMA

COFFEE COUNTY

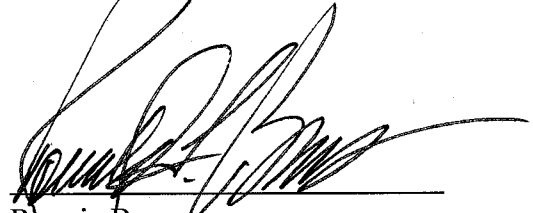
AFFIDAVIT

Comes Now Ronnie Burns, who after being duly sworn, states as follows:

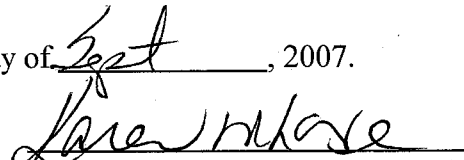
1. My name is Ronnie Burns. I am over the age of nineteen years and have personal knowledge of the matters stated herein.

2. I am the Revenue Commissioner for Coffee County (Enterprise and Elba Divisions). I have served in such capacity for 28 years. I have examined the records of my office (of which I am the custodian) and find the following: Laythron Tillis and Ethel Mae Tillis claim homestead residency at 600 County Road 377, Elba, Alabama (there are two homes on the property which would account for an address of 600 and 602 County Road 377 for the property). This is located in Coffee County, Alabama as evidenced by the records in my office and the attached deed. See attached. They have maintained their homestead claim at this address and on this property since 2003 up to the present.

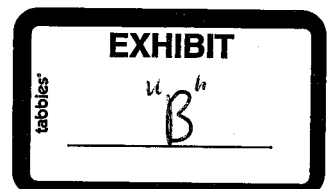
Further affiant sayeth not.


Ronnie Burns

Sworn to and Subscribed before me this 6th day of Sept, 2007.


Notary Public
My Commission Expires:

My Commission Expires
Dec. 14, 2009



STATE OF ALABAMA)
 :
COUNTY OF COFFEE) EXECUTOR'S DEED

KNOW ALL MEN BY THESE PRESENTS, that whereas Amanda McBryde Tillis deceased July 1, 2002 a resident citizen of Coffee County, Alabama; and

WHEREAS, the said Amanda McBryde Tillis died seized and possessed of the real estate conveyed herein, having acquire the same by warranty deed from Annie R. Mixon dated December 17, 1963 recorded in Deed Book 39A, Page 423; and

WHEREAS, Amanda McBryde Tillis left a Last Will and Testament duly admitted to probate on October 31, 2002 recorded in the Coffee County Probate Office (Elba Division) in Will Book A3, Page 796; and

WHEREAS, under the terms of said will, the Testatrix devised all of her real estate to her son, Laythron Tillis, who is one and the same person as Laythron Tillis, the Grantee herein; and

WHEREAS, undersigned Grantor, A. Z. Stoudemire, was duly appointed as Executor and Personal Representative of the said will, as evidenced by the grant of Letters Testamentary, a certified copy of same being attached hereto;

NOW, THEREFORE, in consideration of the premises, and in further consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), the receipt whereof is hereby acknowledged, the undersigned Grantor, A. Z. Stoudemire, in his representative capacity as Executor and Personal Representative of the estate of Amanda McBryde Tillis, deceased, does hereby grant, bargain, sell and convey unto:

LAYTHRON TILLIS and ETHEL MAE TILLIS, husband and wife,
as joint tenants with right of survivorship, the following described property, to-wit:

One and one-half acres of land, more or less, described as follows:

One acre in the Northwest corner of SE¼ of SW¼, and one-half acre in Southwest corner of NE¼ of SW¼, Section 30, Township 5, Range 19, being all of the land owned by grantor at this time in the aforesaid forties.

NOTE: For Grantor's original source of title see Deed Book 39A, Page 423.

TO HAVE AND TO HOLD unto the said **LAYTHRON TILLIS and ETHEL MAE TILLIS,**
as joint tenants with right of survivorship, and to their heirs and assigns, forever.

EXECUTED by me this 11th day of November, 2002.

Recorded In A/OFFR BK 65A Pg 746, 11/12/2002 03:31:59 PM
William O. Gamill, Probate Judge, Coffee County, AL

Deed Tax 24.00, Recording Fee 18.00, TOTAL 42.00

A/0FFR 65A 747

WITNESS:

Amanda McBryde Tillis, deceased

Mark Vaughanby: A. Z. Stoudemire
A. Z. Stoudemire, ExecutorSTATE OF ALABAMA)
 :
COUNTY OF COFFEE)

ACKNOWLEDGMENT

I, the undersigned Notary Public in and for said County and State, hereby certify that A. Z. Stoudemire, whose name as Executor of the estate of Amanda McByrde Tillis, deceased, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, he, in his representative capacity as Executor of said estate, executed the same voluntarily and with full authority on the day the same bears date.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 11th day of November, 2002.Shelia Nelson
Notary Public

This instrument prepared by Mark Vaughan, Cannon & Vaughan, 415 West Davis Street Elba, AL 36323 - 334-897-3413. /sdn

COFFEE COUNTY, STATE OF ALABAMA
ENTERPRISE, AL
I, William O. Gammill, Judge of Probate in and for
said state and county, hereby certify that the within
and foregoing is a true, correct and exact copy of —
as the same appears on recorded in my office. 6th
Given under my hand and seal of office this 11th
day of November 2002
William O. Gammill
JUDGE OF PROBATE, COFFEE COUNTY, ALABAMA
ENTERPRISE DIVISION

LOCATION AND TIME		Month Day Year		F 8 23		FLORIDA		On Street Road or Highway		At Intersection of or Between (Node 1)		And (Node 2)		21 - Overturned 22 - Fuel Spillage 23 - Fire 24 - Explosion 25 - Other		NON-COLLISION EVENT 26 - Roadside Obstruction 27 - Roadside Construction 28 - Other		COLLISION EVENT 29 - Front-End Collision 30 - Rear-End Collision 31 - Side-Swipe Collision 32 - Angle Collision 33 - Other	
		U.S. HWY 331																	
UNIT NO		Driver Full Name		Street Address		City and State		Zip		Phone No		31 - Pedestrian 32 - Bicyclist 33 - Horse 34 - Other		35 - Motorist 36 - Driver 37 - Passenger 38 - Other		39 - Motorist 40 - Driver 41 - Passenger 42 - Other		43 - Motorist 44 - Driver 45 - Passenger 46 - Other	
		CECIL E. CAMERON		33A MAGNOLIA AVE. FT. WALTON BCH., FL.		FL.		32548		850 362-1111									
LEFT SCENE		DOB		Sex		DL State		Driver License No.		DL Class		DL Status		47 - Motorist 48 - Driver 49 - Passenger 50 - Other		51 - Motorist 52 - Driver 53 - Passenger 54 - Other		55 - Motorist 56 - Driver 57 - Passenger 58 - Other	
		04 15 1954		W M		FL		C565-105-54-135-0		E C									
COM VEH		Place of Employment		UNKNOWN		HERTZ RENTAL CORP.		32111-501-3210		59 - Motorist 60 - Driver 61 - Passenger 62 - Other		63 - Motorist 64 - Driver 65 - Passenger 66 - Other		67 - Motorist 68 - Driver 69 - Passenger 70 - Other		71 - Motorist 72 - Driver 73 - Passenger 74 - Other		75 - Motorist 76 - Driver 77 - Passenger 78 - Other	
		Driver		No Defect		3 - Fatigued		8 - Other		79 - Motorist 80 - Driver 81 - Passenger 82 - Other		83 - Motorist 84 - Driver 85 - Passenger 86 - Other		87 - Motorist 88 - Driver 89 - Passenger 90 - Other		91 - Motorist 92 - Driver 93 - Passenger 94 - Other		95 - Motorist 96 - Driver 97 - Passenger 98 - Other	
VEHICLE		Manufacturer		Model		Year		V.I.N.		License Tag Number		99 - Motorist 100 - Driver 101 - Passenger 102 - Other		103 - Motorist 104 - Driver 105 - Passenger 106 - Other		107 - Motorist 108 - Driver 109 - Passenger 110 - Other		111 - Motorist 112 - Driver 113 - Passenger 114 - Other	
		FORD		150		2002		1FTRX18L52NA38823		EC909P		FL		32807					
VEHICLE OR PEDESTRIAN		Owner's Name		Street or R.F.D.		City		State		Zip		115 - Motorist 116 - Driver 117 - Passenger 118 - Other		119 - Motorist 120 - Driver 121 - Passenger 122 - Other		123 - Motorist 124 - Driver 125 - Passenger 126 - Other		127 - Motorist 128 - Driver 129 - Passenger 130 - Other	
		HERTZ RENTAL CORP.		520 N SEMORAN BLVD. SUITE 140		ORLANDO		FL		32807									
VEHICLE		Type		Usage		Hazardous Cargo		Attachment		Contributing Defect		131 - Motorist 132 - Driver 133 - Passenger 134 - Other		135 - Motorist 136 - Driver 137 - Passenger 138 - Other		139 - Motorist 140 - Driver 141 - Passenger 142 - Other		143 - Motorist 144 - Driver 145 - Passenger 146 - Other	
		1 - Auto		1 - Personal		1 - None		1 - None		1 - None		1 - None		1 - None		1 - None		1 - None	
VEHICLE		Speed Limit		Est. Speed		Citation Offense Charged		Damage Severity		Vehicle Towed Away?		Occupant in Unit		147 - Motorist 148 - Driver 149 - Passenger 150 - Other		151 - Motorist 152 - Driver 153 - Passenger 154 - Other		155 - Motorist 156 - Driver 157 - Passenger 158 - Other	
		25 MPH		999 MPH		NONE		1 - Non Visible		Yes		1		1		1		1	

EXHIBIT

tabbies

C

Alabama Department of

Public Safety

Reply May Be Made To:

Driver License Division

P O Box 1471

Montgomery AL 36102-1471

PAGE 1

09/12/2007

DRIVER LICENSE ABSTRACT

NAME: LAYTHRON TILLIS
ISSUE DATE: 02/27/2006
EXPIRATION DATE: 12/31/2009
RESTRICTIONS:

LICENSE NO: 3897631 STATUS: CURRENT
LICENSE CLASS: DM CDL STATUS: UNLICENSED
BIRTH DATE: 12/31/1959 RACE: B SEX: M
ENDORSEMENTS:

CONVICTION DATE	OFFENSE DESCRIPTION	OFF DATE	COM VEH	COURT/AGENCY	REP CNCL
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** NO CONVICTIONS ON CURRENT DRIVER LICENSE NUMBER -- 3897631 **

*** THE INCLUSION OF ACCIDENT DATA IN THIS REPORT ***
*** IN NO WAY IMPLIES FAULT OR LIABILITY. ***
*** THIS REPORT CONTAINS INFORMATION REPORTED TO ***
*** THIS DEPARTMENT FOR THE LAST 3 YEARS. ***



I hereby certify that this is a true and correct copy of the records in the Driver License Division of the Alabama Department of Public Safety.

Major Hugh B. McCall
Major Hugh B Mc/Call
DRIVER LICENSE DIVISION

IN THE CIRCUIT COURT OF COFFEE COUNTY, ALABAMA
ELBA DIVISION

LAYTHRON TILLIS and ETHEL TILLIS,)

Plaintiffs,)

vs.)

CASE NO. CV-2004-049

CECIL E. CAMERON,)

Defendant.)

STATE OF New Jersey

COUNTY of BERGEN

Affidavit

COMES NOW Lisa Coulter of Hertz Claim Management, and after being duly sworn, states as follows:

1. My name is Lisa Coulter. I serve as Senior Casualty Analyst for Hertz Claims Management Corporation. I am over the age of nineteen years and have personal knowledge of the matters stated herein.

2. Hertz Claim Management is incorporated in the State of Delaware. Its principal place of business is in New Jersey.

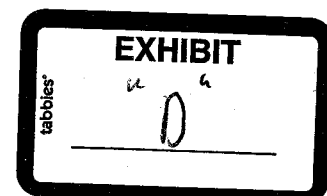
3. The "claims file" documents related to the 2002 accident involving Cecil Cameron and Laythron Tillis are kept and maintained in New Jersey and Florida. Those documents are not maintained by Hertz in the State of Alabama.

Lisa M Coulter
Lisa Coulter

SWORN TO AND SUBSCRIBED BEFORE ME THIS 9th DAY OF JANUARY, 2007.

Carolyn Fry
NOTARY PUBLIC
My Commission Expires:

CAROLYN FRY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 6, 2008



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

LAYTHRON TILLIS and ETHEL TILLIS,)

Plaintiffs,)

vs.)

CASE NO. 1:07-cv-78-WKW)

CECIL E. CAMERON, HERTZ CLAIMS)
MANAGEMENT and THE HERTZ)
CORPORATION,)

Defendants.)

STATE OF NEW JERSEY

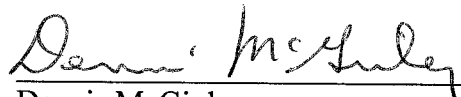
COUNTY OF BERGEN

Affidavit

Comes now Dennis McGinley of The Hertz Corporation, after being duly sworn,
states as follows:

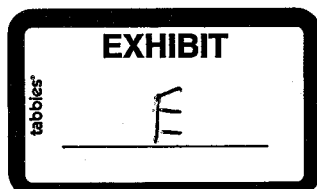
1. My name is Dennis McGinley. I serve as Assistant Secretary for The Hertz Corporation. I am over the age of nineteen years and have personal knowledge of the matters stated herein.

2. The Hertz Corporation is incorporated in the State of Delaware. Its principal place of business is in New Jersey. This was true at the time The Hertz Corporation was named as a defendant in the state court proceeding related to this matter and at the time such was removed to federal court.


Dennis McGinley

SWORN TO AND SUBSCRIBED BEFORE ME THIS 7th DAY OF SEPTEMBER, 2007.


NOTARY PUBLIC
My Commission Expires:



CAROLYN FRY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 6, 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

LAYTHRON TILLIS and ETHEL TILLIS,)

Plaintiffs,)

vs.)

CASE NO. 1:07-cv-78-WKW

CECIL E. CAMERON, HERTZ CLAIMS)
MANAGEMENT and THE HERTZ)
CORPORATION,)

Defendants.)

STATE OF NEW JERSEY

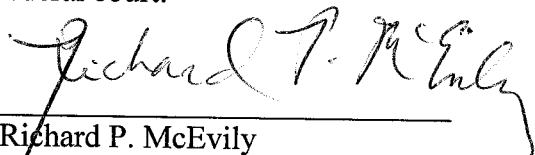
COUNTY OF BERGEN

Affidavit

Comes now Richard P. McEvily of Hertz Claim Management Corporation, after being duly sworn, states as follows:

1. My name is Richard P. McEvily. I serve as Vice President and Secretary for Hertz Claim Management Corporation. I am over the age of nineteen years and have personal knowledge of the matters stated herein.

2. Hertz Claim Management Corporation is incorporated in the State of Delaware. Its principal place of business is in New Jersey. This was true at the time Hertz Claim Management Corporation was named as a defendant in the state court proceeding related to this matter and at the time such was removed to federal court.


Richard P. McEvily

SWORN TO AND SUBSCRIBED BEFORE ME THIS 7th DAY OF SEPTEMBER, 2007.


NOTARY PUBLIC
My Commission Expires:

CAROLYN FRY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 6, 2009